

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 751 City of Gainesville, Alachua County

SPONSOR(S): Clemons

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Renner	Miller
2) Regulatory Reform Subcommittee	16 Y, 0 N	Willson	Anstead
3) State Affairs Committee	20 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

The bill creates an exception to ss. 561.01(11) and 561.20, F.S., permitting food trucks operators within a food truck park, as defined by the City of Gainesville's Code of Ordinances, to sell alcoholic beverages for consumption on the licensed premises located in Innovation Square within the City of Gainesville. The food truck park must have permanent fencing; municipal water, sewer, and solid waste connections; sun sails; tables; and seating.

Food truck operators are prohibited from selling alcoholic beverages by the package for consumption outside of the food truck park. There is no limit on the number of licenses issued to a food truck operator within a food truck park within Innovation Square.

According to the Economic Impact Statement, the bill is revenue neutral.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco (DABT) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages under Florida's Beverage Law.¹

The Beverage Law does not limit the number of licenses DABT may issue to businesses who wish to sell malt beverages or wine.² However, the Beverage Law limits the number of licenses that may be issued allowing a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.³ This license, often referred to as a "quota license," is limited to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.⁴

There are several exceptions to the quota license limitation, and businesses meeting the requirements set out in statute⁵ may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcoholic content.

Alcoholic beverages sold for consumption on premises must be consumed inside the licensed premises.⁶ DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.⁷ The business must pay an application fee of \$100, stipulate the timeframe for the special event, submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

City of Gainesville Food Truck Parks

The City of Gainesville specifically defines "food trucks"⁸ and authorizes the sale and consumption of alcoholic beverages in food truck parks.⁹ The ordinance defines a food truck park as land with three or more food truck pads¹⁰ that is designed for food truck use with:

- Connections to electric utility services;
- Restrooms that are connected to water and sewer utility services and have plumbing;
- Handwashing stations; and

¹ Chs. 561-565 and 567-568, F.S.

² See ss. 563.02 and 564.02, F.S.

³ S. 561.20(1), F.S. See s. 565.02(1)(a)-(f), F.S.

⁴ S. 561.20(1), F.S.

⁵ S. 561.20(2), F.S.

⁶ See s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).

⁷ S. 561.01(11), F.S.

⁸ "Food truck" means a motorized self-contained wheeled vehicle, wheeled trailer, and other conveyances, regardless of the means of propulsion, that is used to vend immediately consumable food or beverage products and is classified as either: 1) Class I - mobile kitchens that have the capability to cook, prepare, and assemble food items on or in the unit; or 2) Class II - canteen units where no preparation or assembly of foods or beverages take place on or in the unit, but which may heat and serve pre-cooked foods or fruits, vegetables, pre-packaged foods or drinks. City of Gainesville Code of Ordinances, ch. 30, art. II, s. 30-2.1.

⁹ City of Gainesville Code of Ordinances, ch. 30, art. V, div. 1, s. 30-5.13.

¹⁰ City of Gainesville Code of Ordinances, ch. 30, art. II, s. 30-2.1 defines a "food truck pad" as an area designated within a food truck park that is designed for food truck use with provision for applicable utilities, including water, sewer, electricity, gas grease interceptors, and solid waste.

- Central solid waste disposal areas and recycling facilities.¹¹

Effect of the Bill

The bill creates an exception to ss. 561.01(11) and 561.20, F.S., permitting food trucks operators within a food truck park, as defined by the City of Gainesville's Code of Ordinances, to sell alcoholic beverages for consumption on the licensed premises located in Innovation Square within the City of Gainesville. The food truck park must have permanent fencing; municipal water, sewer, and solid waste connections; sun sails; tables; and seating.

Food truck operators are prohibited from selling alcoholic beverages by the package for consumption outside of the food truck park. There is no limit on the number of licenses issued to food truck operators within a food truck park within Innovation Square.

According to the Economic Impact Statement, the bill is revenue neutral.

B. SECTION DIRECTORY:

Section 1. Creates an exception to general law, allowing food trucks within a food truck park to sell alcoholic beverages for consumption on the licensed premise located in Innovation Square within the City of Gainesville.

Section 2. Provides the act is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 17, 2020

WHERE? *The Gainesville Sun*, a daily newspaper published in Gainesville, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

¹¹ City of Gainesville Code of Ordinances, ch. 30, art. V, div. 1, s. 30-5.13.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.